

1 KEKER & VAN NEST LLP  
2 ROBERT A. VAN NEST - # 84065  
3 rvannest@kvn.com  
4 CHRISTA M. ANDERSON - # 184325  
5 canderson@kvn.com  
6 DANIEL PURCELL - # 191424  
7 dpurcell@kvn.com  
8 633 Battery Street  
9 San Francisco, CA 94111-1809  
10 Telephone: (415) 391-5400  
Facsimile: (415) 397-7188

7 KING & SPALDING LLP  
8 BRUCE W. BABER (pro hac vice)  
9 bbaber@kslaw.com  
10 1185 Avenue of the Americas  
New York, NY 10036  
Telephone: (212) 556-2100  
Facsimile: (212) 556-2222

11 Attorneys for Defendant  
12 GOOGLE INC.

13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN FRANCISCO DIVISION

16 ORACLE AMERICA, INC.,

17 Plaintiffs,

18 v.  
19 GOOGLE INC.,

20 Defendant.

21 Case No. 3:10-cv-03561 WHA

22 **STIPULATION AND [PROPOSED]**  
**ORDER RE EXPERT SCHEDULE**

23 Dept. Courtroom 8, 19th Floor  
24 Judge: Hon. William Alsup

## **STIPULATION**

WHEREAS, the Court issued a Third Case Management Order on October 6, 2015, ECF No. 1333, setting deadlines for expert reports, opposition expert reports, party expert depositions, Dr. Kearl's Rule 706 Report, Dr. Kearl's deposition, motions directed at Dr. Kearl's report, motions directed at an opposing party's expert reports, a final pretrial conference, and a tentative trial date;

WHEREAS, the Court issued an Order Approving a Modified Schedule for Expert Reports on November 3, 2015, ECF No. 1356, that approved a modified schedule for discovery and expert reports as stipulated by the parties and agreed to by Dr. Kearl, ECF Nos. 1334, 1354 & 1356, and this schedule set deadlines for first round party expert reports, second round party expert reports, third round party expert reports, party expert depositions, Dr. Kearl's Rule 706 expert report, Dr. Kearl's deposition, party rebuttals to Dr. Kearl's Rule 706 report, and *Daubert* motions;

WHEREAS, the Court has indicated that it will not entertain summary judgment motions, ECF No. 1500 & February 2, 2016 Hr'g. Tr. at 20-21 & 32-33;

WHEREAS, given the large volume of material in the second round of party expert reports, the parties agree that it would be appropriate to extend the deadlines for party expert reports, Dr. Kearl's Rule 706 report, rebuttals to Dr. Kearl's report, and corresponding depositions;

WHEREAS, pursuant to the Court's Follow-up Order on Comments on Tentative Trial Plan, ECF No. 1506, the deadline to file *Daubert* motions is March 23, 2016, and under the parties proposed modification the deadline to depose Dr. Kearl is March 25, 2016, the parties agree it is appropriate to extend the deadline to file motions related to Dr. Kearl's report while maintaining the date for any reply brief on such a motion at two weeks prior to the hearing;

WHEREAS, Dr. Kearl, and his counsel, Mr. Cooper, are agreeable to the proposed expert schedule modifications;

WHEREAS, pursuant to Civil Local Rule 6-2 the parties stipulate to the proposed modification to the case schedule, and this stipulated request is accompanied by a declaration

1 setting forth the reasons for the requested changes in time, previous time modifications, and the  
 2 effect the requested time modification would have on the case schedule;

3 THEREFORE, subject to the Court's approval, the parties AGREE and STIPULATE to  
 4 the following modifications to the current schedule, as reflected in the Court's Third Case  
 5 Management Order, Order Approving Modified Schedule for Expert Reports, and Follow-up  
 6 Order on Comments on Tentative Trial Plan:

Event	Current Date	Proposed Date
Third Round of Party Expert Reports	February 22, 2016	February 29, 2016
Deadline for Party Expert Depositions	March 6, 2016	March 16, 2016
Rule 706 Expert Report	March 8, 2016	March 18, 2016
Deadline to Depose Rule 706 Expert	March 15, 2016	March 25, 2016
Party Rebuttals to Rule 706 Report	March 21, 2016	March 28, 2016
Deadline for <i>Daubert</i> Motions Directed at Party Experts	Filed by March 23, 2016 (set for hearing at 4/27 PTC)	March 23, 2016
Deadline for <i>Daubert</i> Motions Related to Rule 706 Expert	March 23, 2016	March 30, 2016
Deadline for <i>Daubert</i> Oppositions Related to Rule 706 Expert	April 6, 2016	April 8, 2016
Deadline for <i>Daubert</i> Replies to Oppositions to Motions Related to Rule 706 Expert	April 13, 2016	April 13, 2016

1  
2 Dated: February 17, 2016

KEKER & VAN NEST LLP

3 By: /s/ Robert A. Van Nest  
4 ROBERT A. VAN NEST

5 Attorneys for Defendant  
6 GOOGLE INC.

7 Dated: February 17, 2016

8 ORRICK, HERRINGTON & SUTCLIFFE  
9 LLP

10 By: /s/ Annette L. Hurst  
11 ANNETTE L. HURST

12 Attorneys for Plaintiff  
13 ORACLE AMERICA, INC.

## 14 ATTESTATION OF CONCURRENCE

15 I, Robert A. Van Nest, the ECF User whose ID and password are being used to file this  
16 Joint Stipulation and [Proposed] Order Regarding Expert Schedule, hereby attest that Annette L.  
17 Hurst concurs in this filing.

18 Dated: February 17, 2016

19 By: /s/ Robert A. Van Nest  
20 ROBERT A. VAN NEST

## 21 [PROPOSED] ORDER

22 PURSUANT TO STIPULATION, IT IS SO ORDERED.

23 Dated:

24 By: HON. WILLIAM ALSUP  
25 UNITED STATES DISTRICT JUDGE